

Nuclear Regulatory Commission

§ 51.28

DETERMINATIONS TO PREPARE ENVIRONMENTAL IMPACT STATEMENTS, ENVIRONMENTAL ASSESSMENTS OR FINDINGS OF NO SIGNIFICANT IMPACT, AND RELATED PROCEDURES

§ 51.25 Determination to prepare environmental impact statement or environmental assessment; eligibility for categorical exclusion.

Before taking a proposed action subject to the provisions of this subpart, the appropriate NRC staff director will determine on the basis of the criteria and classifications of types of actions in §§ 51.20, 51.21 and 51.22 of this subpart whether the proposed action is of the type listed in § 51.22(c) as a categorical exclusion or whether an environmental impact statement or an environmental assessment should be prepared. An environmental assessment is not necessary if it is determined that an environmental impact statement will be prepared.

§ 51.26 Requirement to publish notice of intent and conduct scoping process.

(a) Whenever the appropriate NRC staff director determines that an environmental impact statement will be prepared by NRC in connection with a proposed action, a notice of intent will be prepared as provided in § 51.27, and will be published in the FEDERAL REGISTER as provided in § 51.116, and an appropriate scoping process (see §§ 51.27, 51.28, and 51.29) will be conducted.

(b) The scoping process may include a public scoping meeting.

(c) Upon receipt of an application and accompanying environmental impact statement under § 60.22 or § 63.22 of this chapter (pertaining to geologic repositories for high-level radioactive waste), the appropriate NRC staff director will include in the notice of docketing required to be published by § 2.101(f)(8) of this chapter a statement of Commission intention to adopt the environmental impact statement to the extent practicable. However, if the appropriate NRC staff director determines, at the time of such publication or at any time thereafter, that NRC should prepare a supplemental environmental impact statement in connection with the Commission's action on the license application, the NRC shall follow the

procedures set out in paragraph (a) of this section.

[49 FR 9381, Mar. 12, 1984, as amended at 54 FR 27870, July 3, 1989; 66 FR 55791, Nov. 2, 2001]

§ 51.27 Notice of intent.

(a) The notice of intent required by § 51.26 shall:

(1) State that an environmental impact statement will be prepared;

(2) Describe the proposed action and, to the extent sufficient information is available, possible alternatives;

(3) State whether the applicant or petitioner for rulemaking has filed an environmental report, and, if so, where copies are available for public inspection;

(4) Describe the proposed scoping process, including the role of participants, whether written comments will be accepted, the last date for submitting comments and where comments should be sent, whether a public scoping meeting will be held, the time and place of any scoping meeting or when the time and place of the meeting will be announced; and

(5) State the name, address and telephone number of an individual in NRC who can provide information about the proposed action, the scoping process, and the environmental impact statement.

SCOPING

§ 51.28 Scoping—participants.

(a) The appropriate NRC staff director shall invite the following persons to participate in the scoping process:

(1) The applicant or the petitioner for rulemaking;

(2) Any person who has petitioned for leave to intervene in the proceeding or who has been admitted as a party to the proceeding;

(3) Any other Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce relevant environmental standards;

(4) Affected State and local agencies, including those authorized to develop and enforce relevant environmental standards;

(5) Any affected Indian tribe; and

(6) Any person who has requested an opportunity to participate in the scoping process.

(b) The appropriate NRC staff director may also invite any other appropriate person to participate in the scoping process.

(c) Participation in the scoping process for an environmental impact statement does not entitle the participant to become a party to the proceeding to which the environmental impact statement relates. Participation in an adjudicatory proceeding is governed by the procedures in 10 CFR 2.714 and 2.715. Participation in a rulemaking proceeding in which the Commission has decided to have a hearing is governed by the provisions in the notice of hearing.

§ 51.29 Scoping—environmental impact statement.

(a) The scoping process for an environmental impact statement shall begin as soon as practicable after publication of the notice of intent as provided in § 51.116, and shall be used to:

(1) Define the proposed action which is to be the subject of the statement. The provisions of 40 CFR 1502.4 will be used for this purpose.

(2) Determine the scope of the statement and identify the significant issues to be analyzed in depth.

(3) Identify and eliminate from detailed study issues which are peripheral or are not significant or which have been covered by prior environmental review. Discussion of these issues in the statement will be limited to a brief presentation of why they are peripheral or will not have a significant effect on the quality of the human environment or a reference to their coverage elsewhere.

(4) Identify any environmental assessments and other environmental impact statements which are being or will be prepared that are related to but are not part of the scope of the statement under consideration.

(5) Identify other environmental review and consultation requirements related to the proposed action so that other required analyses and studies may be prepared concurrently and integrated with the environmental impact statement.

(6) Indicate the relationship between the timing of the preparation of environmental analyses and the Commission's tentative planning and decision-making schedule.

(7) Identify any cooperating agencies, and as appropriate, allocate assignments for preparation and schedules for completion of the statement to the NRC and any cooperating agencies.

(8) Describe the means by which the environmental impact statement will be prepared, including any contractor assistance to be used.

(b) At the conclusion of the scoping process, the appropriate NRC staff director will prepare a concise summary of the determinations and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process.

(c) At any time prior to issuance of the draft environmental impact statement, the appropriate NRC staff director may revise the determinations made under paragraph (b) of this section, as appropriate, if substantial changes are made in the proposed action, or if significant new circumstances or information arise which bear on the proposed action or its impacts.

ENVIRONMENTAL ASSESSMENT

§ 51.30 Environmental assessment.

(a) An environmental assessment shall identify the proposed action and include:

(1) A brief discussion of:

(i) The need for the proposed action;

(ii) Alternatives as required by section 102(2)(E) of NEPA;

(iii) The environmental impacts of the proposed action and alternatives as appropriate; and

(2) A list of agencies and persons consulted, and identification of sources used.

(b) Unless otherwise determined by the Commission, an environmental assessment will not include discussion of any aspect of the storage of spent fuel within the scope of the generic determination in § 51.23(a) and in accordance with the provisions of § 51.23(b).